

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

[REDACTED])	
)	Case Number:
<i>Plaintiff,</i>)	
v.)	Judge:
)	
CITY OF CHICAGO, a Municipal Corporation,)	Magistrate Judge:
CHICAGO POLICE DETECTIVE)	
ANTHONY AMATO, STAR NO. 20511,)	
CHICAGO POLICE OFFICER VICTOR)	
RIVERA, STAR NO. 13011, CHICAGO POLICE)	JURY TRIAL DEMANDED
OFFICER J. LOPEZ, STAR NO. 809, AND)	
VARIOUS UNKNOWN OFFICERS OF THE)	
CHICAGO POLICE DEPARTMENT,)	
Individually and as an Employee/Agent of the)	
CITY OF CHICAGO, a Municipal Corporation,)	
)	
<i>Defendants.</i>)	

COMPLAINT

NOW COMES Plaintiff, [REDACTED] by and through his attorneys, HENDERSON ADAM, LLC, to complain of the Defendants, City of Chicago, a Municipal Corporation, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and Various Unknown Officers of the Chicago Police Department, as follows:

NATURE OF CASE

1. This is an action for monetary damages brought pursuant to 42 U.S.C. § 1983 and the laws of the State of Illinois.
2. Plaintiff, [REDACTED] brings this action to obtain redress for Defendants' misconduct, which has included, among other things, unlawfully seizing and detaining Plaintiff; causing Plaintiff to sustain emotional, physical and economic injuries.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and § 1343 because Plaintiff's claims arise under the Constitution and laws of the United States.

4. Venue is proper pursuant to 28 U.S.C. § 1391 (b) because the facts that gave to the claims occurred within the Northern District of Illinois.

THE PARTIES

5. At all relevant times herein, Plaintiff, Julian Dailey, resided in Chicago, Illinois.

6. At all relevant times herein, Defendant, Amato (Star No. 20511), resided in Chicago, Illinois, served as a duly appointed City of Chicago and Chicago Police Department employee, and acted in his official capacity and under the color of law as a sworn law enforcement officer.

7. At all relevant times herein, Defendant, Rivera (Star No. 13011), resided in Chicago, Illinois, served as a duly appointed City of Chicago and Chicago Police Department employee, and acted in his official capacity and under the color of law as a sworn law enforcement officer.

8. At all relevant times herein, Defendant, J. Lopez (Star No. 809), resided in Chicago, Illinois, served as a duly appointed City of Chicago and Chicago Police Department employee, and acted in his official capacity and under the color of law as a sworn law enforcement officer.

9. At all relevant times, various unknown officers (whose names have yet to be discovered) resided in Chicago, Illinois, served as duly appointed City of Chicago and Chicago Police Department employees, and acted in their official capacities and under the color of law as sworn law enforcement officers.

10. City of Chicago is a municipal corporation, incorporated under the laws of the State of Illinois, that employed each of the defendant police officers at all times relevant to this Complaint.

FACTUAL BACKGROUND

11. On October 2, 2009, Plaintiff, [REDACTED] was charged with armed habitual criminal, unlawful use of a weapon by a felon, possession of a controlled substance with intent to deliver, and aggravated unlawful use of a weapon. See People of the State of Illinois v. [REDACTED]
[REDACTED] Case No. [REDACTED]

12. On October 2, 2009, Plaintiff, [REDACTED] was arrested by Defendant, Chicago Police Detective Anthony Amato, Star No. 20511, and Defendant, Chicago Police Officer Victor Rivera, Star No. 13011, at the location of [REDACTED]

13. Defendant, Chicago Police Officer Police Officer J. Lopez, Star No. 809, was the supervising officer of Defendants, Chicago Police Detective Anthony Amato, Star No. 20511, and Chicago Police Officer Victor Rivera, Star No. 13011.

14. On October 28, 2009, Defendant, Chicago Police Detective Anthony Amato, Star No. 20511, testified under oath, before the Grand Jury of Cook County.

15. At the Grand Jury hearing, Defendant, Chicago Police Detective Anthony Amato, Star No. 20511, testified that the evidence upon which the Grand Jury was to indict Plaintiff, [REDACTED] was obtained as a result of a search of a residence located at [REDACTED]
[REDACTED]

16. Defendant, Chicago Police Detective Anthony Amato, Star No. 20511, went on to inform the Grand Jury, while continually under oath, that the Chicago police officers were able

to conduct the search of the residence because Plaintiff, [REDACTED] signed a "Consent to Search Form", giving the said officers consent to search.

17. According to Defendant, Chicago Police Detective Anthony Amato's (Star No. 20511), sworn testimony, the items located in the residence of Plaintiff, [REDACTED] was solely found due to the signing of a "Consent to Search Form" by Plaintiff, [REDACTED]

18. On October 2, 2009, Plaintiff, [REDACTED] did not reside at [REDACTED]
[REDACTED] the property at issue.

19. As evidenced by the valid Illinois Driver's license tendered to Defendants, Chicago Police Detective Anthony Amato (Star no. 20511), and Chicago Police Officer Victor Rivera (Star No. 13011), on October 2, 2009, Plaintiff [REDACTED] resided at [REDACTED]
[REDACTED]

20. Despite having knowledge of Plaintiff, [REDACTED] registered address, Defendant, Chicago Police Detective Anthony Amato (Star No. 20511), therefore, either informed and/or confirmed to the Grand Jury, that the signing of the "Consent to Search Form" to search the residence at [REDACTED] was signed by the Plaintiff, [REDACTED]

21. As a result, the Grand Jury, basing its decision upon the sworn testimony of Defendant, Chicago Police Detective Anthony Amato (Star No. 20511), which was the sole testimony presented, the Cook County State's Attorney, Daniel Hanichak, signed a true bill and indicted Plaintiff, [REDACTED]

22. Thereafter, upon being arraigned and being tendered discovery, including a copy of the alleged "Consent to Search Form", Plaintiff, [REDACTED] hired a handwriting expert. The Handwriting Expert, Bonnie Schwid was given both a copy of, and the original, Consent to

Search Form, handwriting exemplars of Plaintiff, [REDACTED] and various documents of Plaintiff, Julian Dailey, displaying his natural signatures.

23. Upon examination of all of the above, Bonnie Schwid, Board Certified Forensic Document Examiner made the following Expert Opinion:

“Upon examination of the original document – [Consent to Search form] – it is my professional opinion that the signature on the *Consent to Search* was not written by [REDACTED]. There is a fundamental difference in the handwriting.”

24. On March 30, 2011, Plaintiff, [REDACTED] learned for the first time his name was actually forged on the “Consent to Search Form”.

25. Thereafter, the Chicago Police Department petitioned the Court to have an independent handwriting analysis performed.

26. On December 15, 2011, the Illinois State crime lab conducted a forensic handwriting analysis and determined the signature on the “Consent to Search Form” was not that of Plaintiff, [REDACTED]

27. Since the alleged “Consent to Search Form” was never signed by Plaintiff, [REDACTED]

[REDACTED] then the Chicago police officers that entered the residence located at [REDACTED]

[REDACTED] never obtained a consent to search from Plaintiff, [REDACTED]

28. As a result, the Grand Jury based its decision to indict and sign a true bill on absolute, unequivocal perjury.

29. Consequently, on January 24, 2012, all charged against Plaintiff, [REDACTED] were vacated.

CAUSES OF ACTION

COUNT I

42 U.S.C. § 1983 – UNLAWFUL/FALSE ARREST
WILLFUL AND WANTON

30. Plaintiff, [REDACTED] re-allege paragraphs 1 – 29 as if fully stated herein.

31. At all relevant times herein, Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown officers, served as duly appointed City of Chicago and Chicago Police Department agents/employees, and acted under the color of law and in their official capacities as sworn law enforcement officers.

32. On October 2, 2009, Plaintiff, [REDACTED] was unlawfully arrested by Defendants, Chicago Police Detective Anthony Amato (Star No. 20511) and Chicago Police Officer Victor Rivera (Star No. 13011), since the signature on the "Consent to Search Form" which served as the basis for the search and subsequent arrest was forged.

33. The willful and wanton acts or omissions of Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 103011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown duly appointed officers, employees/agents of the City of Chicago, and the Chicago Police Department, violated the United States Constitution and infringed upon Plaintiff's, [REDACTED] rights by seizing, detaining and/or arresting Plaintiff, [REDACTED] without justification and/or probable cause.

34. The willful and wanton acts or omissions of Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 103011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown duly appointed

officers, employees/agents of Defendant, City of Chicago, and the Chicago Police Department, violated the constitutional right of Plaintiff, Julian Dailey, to be free from false arrest.

35. Defendant, City of Chicago, its agents/employees Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 103011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown officers of the City of Chicago, and the Chicago Police Department, had a duty not to violate the constitutionally protected rights of Plaintiff, [REDACTED]

36. Defendant, City of Chicago, and its agents/employees Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 103011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown officers of the City of Chicago, and the Chicago Police Department, acted whether with a conscious disregard or a reckless disregard for the duty owed to Plaintiff, [REDACTED]

37. As a result of the aforementioned willful and wanton acts or omissions by Defendants, City of Chicago, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 103011), and Chicago Police Officer J. Lopez (Star No. 809), Plaintiff, [REDACTED] was unlawfully arrested and deprived of his liberty without due process of law.

38. On or about October 2, 2009, and thereafter, as a direct and proximate result of the foregoing willful and wanton acts or omissions by Defendant, City of Chicago, by and through its agents and/or employees Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown police officers of Defendant, City of Chicago, Plaintiff, Julian Dailey, suffered injuries of a personal and pecuniary nature.

WHEREFORE, Plaintiff, [REDACTED] prays that this Court:

- A. Enter judgment in favor of the Plaintiff and against all Defendants.
- B. Award compensatory damages in an amount in excess of \$75,000.
- C. Award punitive damages in favor of Plaintiff and against all Defendants.
- D. Award attorneys' fees and costs in favor of Plaintiff and against all Defendants.
- E. Award such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all triable issues.

COUNT II
42 U.S.C. § 1983 – MALICIOUS PROSECUTION
WILLFUL AND WANTON

39. Plaintiff, [REDACTED] re-allege paragraphs 1 – 38 as if fully stated herein.

40. At all relevant times herein, Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown officers of the Chicago Police Department, served as duly appointed City of Chicago and Chicago Police Department agents/employees, and acted under the color of law and in their official capacities as sworn law enforcement officers.

41. On October 2, 2009, and thereafter, Defendant, City of Chicago, by and through its duly appointed agents/employees, Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer

J. Lopez (Star No. 809), and various unknown police officers/agents of Defendant, City of Chicago, and the Chicago Police Department, intentionally and recklessly used the legal process in a wrongful manner to accomplish a purpose for which it was not designed.

42. On October 2, 2009, and thereafter, Defendant, City of Chicago, by and through its duly appointed agents/employees, Defendants, Chicago Police Detective Anthony Amato Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown police officers/agents of Defendant, City of Chicago, and the Chicago Police Department, acted with an ulterior motive.

43. The willful and wanton acts committed by Defendant, City of Chicago, by and through its duly appointed agents/employees, Defendants, Chicago Police Detective Anthony Amato Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown police officers, employees/agents of Defendant, City of Chicago, and the Chicago Police Department, were not authorized by the process.

44. Defendant, City of Chicago, its agents/employees Defendants, Chicago Police Detective Anthony Amato Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown duly appointed officers, employees/agents of the City of Chicago, and the Chicago Police Department, had a duty not to violate the constitutionally protected rights of Plaintiff, [REDACTED]

45. Defendant, City of Chicago, by and through its agents/employees Defendants, Chicago Police Detective Anthony Amato Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown duly

appointed officers of the City of Chicago, and the Chicago Police Department, acted with a conscious disregard or a reckless disregard for the duty owed to Plaintiff, [REDACTED]

46. That Defendant, City of Chicago, by and through its duly appointed agents/employees, Defendants, Chicago Police Detective Anthony Amato Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and unknown police officers/agents of Defendant, City of Chicago, and the Chicago Police Department, by their aforementioned willful and wanton conduct violated the constitutional rights of Plaintiff, [REDACTED] to be free from malicious prosecution.

47. That Defendant, City of Chicago, by and through its duly appointed agents/employees, Defendants, Chicago Police Detective Anthony Amato Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown police officers/agents of Defendant, City of Chicago, and the Chicago Police Department, misuse of the legal process was a cause of injury, damage, loss and harm to Plaintiff, Julian Dailey.

WHEREFORE, Plaintiff, [REDACTED] prays that this Court:

- A. Enter judgment in favor of the Plaintiff and against all Defendants.
- B. Award compensatory damages in an amount in excess of \$75,000.
- C. Award punitive damages in favor of Plaintiff and against all Defendants.
- D. Award attorneys' fees and costs in favor of Plaintiff and against all Defendants.
- E. Award such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff, [REDACTED] hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all triable issues.

COUNT III
42 U.S.C. § 1983 – CONSPIRACY
WILLFUL AND WANTON

48. Plaintiff, [REDACTED] re-allege paragraphs 1 – 47 as if fully stated herein.

49. At all relevant times herein, Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown officers, served as duly appointed City of Chicago and Chicago Police Department agents/employees, and acted under the color of law and in their official capacities as sworn law enforcement officers.

50. On October 2, 2009, Defendant, City of Chicago, by and through its duly appointed agents/employees, Defendants, Chicago Police Detective Anthony Amato Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown police officers/agents of Defendant, City of Chicago, lacked probable cause to detain, arrest or charge Plaintiff, [REDACTED] with violations of the Illinois Criminal Code.

51. On October 2, 2009, Defendants, Chicago Police Detective Anthony Amato Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown police officers/agents of Defendant, City of Chicago, and the Chicago Police Department, agreed to fabricate evidence to effect an unauthorized search.

52. On October 2, 2009, Defendants, Chicago Police Detective Anthony Amato Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various other officers of the City of Chicago and the Chicago Police

Department, agreed to, and did, forge the signature of Plaintiff [REDACTED] on a "Consent to Search Form", which resulted in Plaintiff, [REDACTED] being unlawfully arrested.

53. In furtherance of the agreement between Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown police officers/agents of Defendant, City of Chicago, and the Chicago Police Department, Chicago Police Detective Anthony Amato, Star No. 20511, intentionally lied under oath, (1) before the Grand Jury of Cook County on October 28, 2009, and (2) on the sworn arrest.

54. Defendant, City of Chicago, its agents/employees Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown duly appointed officers, employees/agents of the City of Chicago, and the Chicago Police Department, had a duty not to violate the constitutionally protected rights of Plaintiff, [REDACTED]

55. Defendant, City of Chicago, by and through its agents/employees Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown duly appointed officers of the City of Chicago, and the Chicago Police Department, acted with a conscious disregard or a reckless disregard for the duty owed to Plaintiff, [REDACTED]

56. Defendant, City of Chicago, its agents/employees Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown duly appointed officers, employees/agents of the City of Chicago, and the Chicago Police Department, through their willful and wanton acts acted in concert and knowingly falsified police reports, filed false

criminal charges, withheld and/or concealed exculpatory evidence and fabricated incriminating evidence that resulted in the arrest and detainment of Plaintiff, [REDACTED] and conspired to "cover up" the false arrest and detention of Plaintiff, [REDACTED]

57. As a direct and proximate result of the foregoing agreed upon willful and wanton acts or omissions by Defendant, City of Chicago, by and through its agents and/or employees Defendants, Chicago Police Detective Anthony Amato (Star No. 20511), Chicago Police Officer Victor Rivera (Star No. 13011), Chicago Police Officer J. Lopez (Star No. 809), and various unknown police officers of Defendant City of Chicago, and the Chicago Police Department, Plaintiff [REDACTED] suffered injuries of a personal and pecuniary nature.

WHEREFORE, Plaintiff, [REDACTED] prays that this Court:

- A. Enter judgment in favor of the Plaintiff and against all Defendants.
- B. Award compensatory damages in an amount in excess of \$75,000.
- C. Award punitive damages in favor of Plaintiff and against all Defendants.
- D. Award attorneys' fees and costs in favor of Plaintiff and against all Defendants.
- E. Award such other relief as the Court deems just and equitable.

JURY DEMAND

Plaintiff, [REDACTED] hereby demands a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all triable issues.

Respectfully submitted

By: /s/ Samuel E. Adam
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